

# Decision Notice and Finding of No Significant Impact

## Lincoln Forest Plan Amendment 11

### Protection of Eligible Wild, Scenic or Recreation River Areas

#### Lincoln National Forest

#### Otero, Eddy, Chavez and Lincoln County, New Mexico

### Decision and Rationale:

It is my decision to amend the Lincoln National Forest Land and Resource Management Plan (Lincoln Forest Plan) to protect eligible<sup>1</sup> rivers (river areas<sup>2</sup>) for their outstandingly remarkable values, and preserve their classification pending determination of their suitability for inclusion into the National Wild and Scenic River System.<sup>3</sup> This interim management applies to rivers that have been inventoried and deemed eligible on the Lincoln National Forest.

Forest Service Handbook (FSH 1909.12, Chapter 8.12) guidelines will be added to the Lincoln Forest Plan under Forest-wide Prescriptions as shown in the attachment to this document. ~~Direction taken from the Forest Service Handbook (FSH 1909.12, Chapter 8.2) will also be included.~~ This amendment pulls agency policy into a common place and gives better assurance that inventoried areas are protected.

My decision does not select which rivers are eligible or identify which rivers the Forest Service will formally recommend to Congress for designation. The next step would be suitability assessments, which would be conducted in compliance with the National Environmental Policy Act (NEPA). At that time, people can express support or concern on whether an eligible river (or segment) is suitable for Wild and Scenic River designation.

My reason for this decision is to comply with Forest Service policy, which requires clear and appropriate management prescription for eligible rivers in Forest Plans. The Forest Service Handbook states...

*The protection requirements... must be documented in the forest plan prescriptions and continued until a decision is made as to the future use of the river and adjacent lands. (FSH 1909.12, 8.12)*

*The preferred process is to proceed with determining suitability by completing a river study in the draft forest plan. An alternative is to delay the suitability determination on eligible rivers until a subsequent separate study is carried out. If this latter alternative is used, the forest plan must provide for protection of the river area until a decision is made as to the future use of the river and adjacent lands. Unless the study process would be unduly delayed, subsequent study of eligible rivers may be coordinated with a general revision of the forest plan. (FSH 1909.12, 8.14).*

The Lincoln Forest Plan contains the programmatic prescriptions for future proposed actions. When the Lincoln Forest Plan was approved in 1986, direction on how to protect eligible rivers was not included. Having direction in the Forest Plan helps assure that as resource management actions are designed on the Forest, mitigation measures will be incorporated to assure protection of the outstandingly remarkable values for which river areas were determined eligible.

My decision also meets one of the terms in a 1999 Stipulation and Settlement Agreement (*SW Center for Biological Diversity et al. v. Forest Service*) where the Forest Service agreed to protect eligible rivers according to Forest Service policy as set forth in the Forest Service Handbook, Chapter 8 -- "Wild and Scenic River

<sup>1</sup> Eligibility is an inventory as to whether a river is free-flowing and possesses one or more outstandingly remarkable values(s)

<sup>2</sup> The river area equals the river and ¼ mile on either side, or approximately 320 acres per mile.

<sup>3</sup> 1968 Wild and Scenic Rivers Act (USCS1271)

Evaluation" and "Interim Management of Study Rivers." My decision fulfills this stipulation from the court ordered agreement.

The 1999 Stipulation and Settlement Agreement also required the Lincoln National Forest to conduct a river assessment (eligibility and classification) for rivers within its respective jurisdiction pursuant with the Wild and Scenic Rivers Act. Eligibility is an inventory as to whether a river is free flowing and possesses one or more outstandingly remarkable value(s). The Lincoln National Forest completed an inventory of all potential rivers and/or segments within the time-frame set in the agreement.

A team made up of various disciplines (wildlife, recreation, hydrology, etc.) was identified to conduct the analysis for each ranger district on the Lincoln National Forest. These district interdisciplinary teams systematically identified and evaluated the free-flowing nature and existence of potential outstandingly remarkable values for rivers or river segments on the Lincoln National Forest. Eight hundred and thirty (830) rivers/river segments were evaluated and fifty seven (57) were determined eligible. The determination that a river area contains outstandingly remarkable values was a professional judgment on the part of each member of the interdisciplinary team. Input from organizations and individuals familiar with specific river resources was sought and documented as a part of the process. A list of eligible rivers, their outstandingly remarkable values and their potential classification are included as an appendix to the environmental assessment. *This decision does not in any way make a determination on the eligibility or suitability of these rivers or any others that were analyzed during the inventory process.*

### **Issues and Alternatives Considered:**

The 1999 Stipulation and Settlement Agreement is an expression of concern by the Center for Biological Diversity and Amigos Bravos that the Lincoln National Forest (as well as other National Forests in New Mexico) would not protect eligible rivers unless direction from the Forest Service Manual (FSM 1924.03) and Forest Service Handbook (FSH 1909.12, 8.12) were also incorporated into the Forest's Land and Resource Management Plan. The proposed action (and this decision) simply duplicates existing Forest Service requirements.

No significant issues relating to copying direction from the Forest Service Manual and Handbook into the Forest Plan were identified on which to build alternatives, therefore only two alternatives were considered:

- **Alternative A:** *No Action; do not amend the Lincoln Forest Plan.*
- **Alternative B:** *Place direction from the Forest Service Manual and Forest Service Handbook into the Forest Plan (see attached replacement pages).*

The purpose and need for the proposed action was to comply with existing agency direction and 1999 Stipulation and Settlement Agreement. No other alternatives were considered in detail, since no variations on wording (standards/guidelines) from what is already stated in the Forest Service Manual and Forest Service Handbook could be made. Modifications to existing Forest Service policy and regulations would need to go through a formal rulemaking process, thus an alternative to include something different than what is already stated in agency direction would be beyond the scope of the analysis.

### **Scoping and Public Participation:**

Scoping applies to all proposed actions that require an environmental analysis. However, the type and level of scoping and public participation is *commensurate with the nature and complexity of the proposed action* (FSH 1909.15, 10.3 (2a)). Public scoping on the proposed amendment to the Lincoln Forest Plan was conducted through a scoping letter dated May 28, 2002 mailed to a list of over two hundred individuals and organizations who request information on proposed Forest activities. In addition, pertinent information has been placed on the Lincoln National Forest Internet website.

In response to the scoping letter, four comments were received. All comments were reviewed for their content and responses have been included in Appendix D of this document, and are filed in the project record. My decision is in direct response to public concerns and concerns expressed by the Center for Biological Diversity and Amigos Bravos. This decision assures the public that the Forest Service will protect eligible rivers (or river

areas) for their outstandingly remarkable values, and preserve their classification pending determination on their suitability for inclusion into the National Wild and Scenic River System. More extensive and comprehensive public involvement would take place as a part of the NEPA process involving suitability.

### **Finding of No Significant Impact (FONSI):**

This is not a major Federal action that would significantly affect the quality of the human environment. Therefore, an environmental impact statement was not prepared. This determination was made considering the following:

**Context:** This is a local decision. It affects the Lincoln National Forest and has no national or regional effect.

#### **Intensity:**

- **Beneficial and Adverse Impacts:** *Implementation of this decision has no environment effects. It is simply duplicating direction already stated in agency policy and regulation.*
- **Public Health and Safety:** *Since implementation of this decision has no environmental effects, it will not pose any public health or safety risk.*
- **Unique Characteristics:** *This decision will not effect the unique characteristics for which a river or river segment was identified as eligible, until further analysis is completed to determine whether or not it is suitable to be included into the National Wild and Scenic River System.*
- **Controversy of Effects:** *There is no to controversy over the effects of copying existing direction into the Forest Plan.*

**Uncertainty and Risks:** *This decision will incorporate existing law and agency policy and regulation into the Forest Plan. This direction has been implemented and adhered to by the Forest Service and other agencies (in the case of the Wild and Scenic Rivers Act) for many years. Therefore, implementation of this decision will carry no uncertain effects or risks.*

- **Precedent:** *This decision does not set a precedent, for similar direction has already been incorporated in many forest plans across the nation. In addition, the determination to have such standards and guidelines has already been made in the Forest Service Manual, Forest Service Handbook.*
- **Cumulative Effect:** *There are no direct or indirect effects from coping existing direction into the Forest Plan. Therefore, there can be no cumulative effects.*
- **Significant Scientific, Cultural or Historical Resources:** *This decision has no effect on any of these resources, for they are already protected by current regulation.*
- **Threatened or Endangered Species:** *This decision has no effect on any federally listed threatened or endangered species because we are required now to protect these species and this action merely places current direction into the Forest Plan.*
- **Laws:** *This decision does not violate Federal, State or local laws or requirements imposed for the protection of the environment. This decision implements legislation in the Wild and Scenic Rivers Act.*

### **Appeal Rights:**

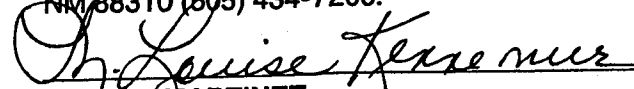
This decision to copy existing direction from the Forest Service Manual and Handbook into the Lincoln Forest Plan is subject to appeal in accordance with 36 CFR 217. My decision does not select which rivers are eligible or identify which rivers the Forest Service will formally recommend to Congress as suitable for designation. The next step would be suitability assessments, which would be conducted in compliance with the National Environmental Policy Act (NEPA). This is when people can express support or concern on whether or not an eligible river (or segment) is suitable for Wild and Scenic River designation.

A Notice of Appeal concerning duplicating Forest Service Manual and Handbook direction into the Forest Plan must be in writing and clearly stated that it is a Notice of Appeal being filed pursuant to 36 CFR 217. Appeals must be fully consistent with 35 CFR 217, "Content of Notice of Appeal" and must be filed with the Regional

Forester, Southwestern Region, 333 Broadway SE, Albuquerque, NM 87102 within 45 days of the date of legal notice of this decision in the Alamogordo Daily News.

**More Information:**

For additional information, contact Ron Hannan, Lincoln National Forest, 1101 New York Avenue, Alamogordo, NM 88310 (805) 434-7200.

  
JOSE M. MARTINEZ  
Forest Supervisor, Lincoln National Forest

September 11, 2002

Date